



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
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Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR LONG-TERM TRANSFER
INVOLVING THE LONG TERM TRANSFER
OF UP TO 10,000 ACRE-FEET OF WATER PER YEAR
FROM THE DEPARTMENT OF WATER RESOURCES
TO AREAS WITHIN THE WESTLANDS WATER DISTRICT
UNDER PERMIT 16482 (APPLICATION 17512)**

Notice is hereby given that on February 16, 2010

Department of Water Resources
c/o Nancy Quan, Chief
Program Development and Water Supply and Transfers
P.O. Box 942836
Sacramento, CA 94236-0001

filed with the State Water Resources Control Board (State Water Board), a Petition for Long-Term Transfer under Water Code section 1735, *et seq.* The Department of Water Resources' (DWR) petition requests the long-term transfer of up to 10,000 acre-feet per year (afa) of water under Permit 16482 (Application 17512) to portions of the Westlands Water District (WWD), the majority of which is served solely by the U.S. Bureau of Reclamation's Central Valley Project (CVP). DWR's petition requests that the long-term transfer be effective from May 1, 2011 through April 30, 2027.

DESCRIPTION OF THE TRANSFER

State Water Project (SWP) water is stored in San Luis Reservoir under the provisions of Permit 16482 (Application 17512) and held for use in the service areas of SWP contractors including the Tulare Lake Basin Water Storage District (Tulare) and the Empire West Side Irrigation District (Empire). Newton Farms and Hansen Ranches/Vista Verde Farms are farming interests that hold lands in both Tulare and WWD. Newton and Brooks Farms are farming interests that hold lands in both Empire and WWD. These parties' lands in Tulare and Empire have historically been planted with annual field crops such as cotton, small grains, safflower, and alfalfa. These parties' lands in WWD have historically been planted with annual field crops and higher-value permanent plantings of almonds and pistachios. The percentage of lands in WWD planted with permanent crops has increased over recent years. This petition was filed to allow these parties the flexibility to use SWP water to maintain their higher-value permanent crops. The petition states that, with the transfer, lands in Tulare and Empire will continue to be farmed using other local surface water sources or crop shifting/idling. DWR indicated that no additional groundwater will be pumped within Tulare or Empire as a result of this transfer.

California Environmental Protection Agency

Newton Farms, Hansen Ranches/Vista Verde Farms, and Brooks Farms have requested that a total of up to 10,000 afa of SWP water currently scheduled for use on their lands in Tulare and Empire (8,000 afa from Tulare and 2,000 afa from Empire) be transferred for use on their lands located within WWD. DWR submitted this petition for temporary change in place of use to facilitate this exchange. The proposed long-term transfer would be effective from May 1, 2011 through April 30, 2027. Specific information regarding the acreage of lands within WWD intended for transfer and the resulting crop water application rates (in af per acre) at various CVP and SWP allocations is contained in the petition. The petition is available for viewing online with the copy of this notice at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

In the absence of the proposed temporary change, the water would be used by the aforementioned parties on their lands located within Tulare or Empire. Additional groundwater would likely be pumped within WWD to keep orchards from reaching their permanent wilting point.

PREVIOUS TEMPORARY CHANGES

DWR has petitioned for temporary changes (effective for up to one year) similar to the proposed long-term change on an annual basis since 2001 (with the exception of 2003). These changes were approved by the State Water Board in WR Orders 2001-0015, 2002-07, 2004-0028, 2005-0015, 2006-0012, 2007-0014, 2008-0047, 2009-0026, and 2010-0017. DWR's petition includes a summary of the amount of water approved for transfer and the final amount of water transferred pursuant to these orders since 2004¹. Since 2004, 39,000 acre-feet (af) of water was approved for transfer and 21,835 af of this water was actually transferred. DWR's summary table is available for viewing online with the copy of this notice as described above. The aforementioned State Water Board orders are available for viewing online at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/.

PETITIONER'S WATER RIGHTS

Permit 16482 was issued to DWR on September 26, 1972, and it authorizes DWR to divert to storage up to 1,100,000 af of water between January 1 and December 31 of each year. Authorized sources under Permit 16482 are the Sacramento-San Joaquin Delta Channels, Italian Slough, and San Luis Creek. The water may be used for irrigation, domestic, municipal, industrial, salinity control, recreation, fish and wildlife

¹ The table titled "Summary of Water Transfers," included with the petition and the Initial Study, contained an error in the amount of water approved for transfer. DWR submitted a revised table with accurate information regarding the amount of water approved for transfer. The revised table is available for viewing online with the copy of this notice as described above.

enhancement, and to generate incidental power. During the period of the proposed long-term transfer, the subject 10,000 af of SWP water will be diverted and stored under provisions of DWR's permits (set forth in State Water Resources Control Board Revised Decision 1641, or any future water rights decision modifying these permits) and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act. The long-term transfer of up to 10,000 afa of SWP water to WWD should have no effect on any natural streamflow or hydrologic regime.

PROPOSED LONG-TERM CHANGES

DWR's petition requests the long-term addition of areas within WWD to the place of use of Permit 16482. These areas are located within Township 16S, Range 15E, Township 17S, Range 14E, Township 17S Range 15E, and Township 19S, Range 18E, MDB&M, and are shown on a map prepared by DWR available for viewing with the copy of the notice for this petition on the Division of Water Rights' website at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

STATUS OF WWD'S PROJECT

WWD's service area is located primarily east of Interstate 5, between the cities of Mendota and Kettleman City, in Fresno and Kings Counties; being within T13-22S, R12-19E, MDB&M. In general, land in WWD has complete tailwater control within each field. WWD's pipeline distribution system and landowners' irrigation systems in WWD have been documented as one of the more efficient systems available in California to minimize the amount of water applied to crops. In addition, WWD has established aggressive programs to encourage water conservation and reduce deep percolation. The petition states that areas proposed to receive SWP water under this transfer have not been shown to have drainage or selenium problems. These areas are shown on a map prepared by DWR, which is available for viewing online with this notice as described above.

ENVIRONMENTAL CONSIDERATIONS

Tulare is serving as lead agency pursuant to requirements of the California Environmental Quality Act (CEQA). On December 23, 2009, Tulare released a Notice of Preparation and Consideration of Negative Declaration for the proposed long-term change including an Initial Study and Environmental Checklist documenting the reasons supporting this finding. The comment period for the Negative Declaration closed on February 2, 2010, and on that day Tulare's Board of Directors approved the Negative Declaration and issued a Notice of Determination, finding that the proposed project would not have a significant effect on the environment. The Notice of Preparation and Consideration of Negative Declaration (dated December 23, 2009), Initial Study and

Environmental Checklist (dated December, 2009), Negative Declaration (dated February 4, 2010), and Notice of Determination are attached to the copy of the subject petition and are available for viewing online with this notice as described above.

APPLICABLE STATUTORY PROVISIONS

Pursuant to Water Code sections 1735, *et seq.*, the State Water Board is authorized to consider approval of a petition for long-term transfer of water or water rights where the change:

1. would not result in substantial injury to any legal user of water; and
2. would not unreasonably affect fish, wildlife, or other instream beneficial uses.

Pursuant to the requirements of section 1735, *et seq.*, the State Water Board is seeking information or concerns that may assist in the evaluation of the proposed transfer.

PROTEST SUBMITTAL INFORMATION

A person may file a protest against approval of the petition with the State Water Board. The protest may be based on any appropriate grounds consistent with the water code, including:

- Injury to any legal user of water.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the petition, and the factual basis for those objections. For example, if the objection is based on injury to a legal water user, the protest must describe the specific injury to the user that would result from approval of the changes proposed by the petition. In addition, the party claiming injury must provide specific information that describes the basis of the use, the date the use began, the quantity of water use, the purpose of use, and the place of use. Protests based on environmental impacts, public interest, legality, or jurisdictional issues must be accompanied by a statement of facts supporting the basis of the protest. If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests should be project-specific. Simply requesting information or a study, without identifying the underlying value or concern the protection of which additional information could resolve, does not constitute a valid protest. The Division will not accept protests that are directed against the underlying water right, rather than the changes proposed by the petition.

A protest should also contain a description of measures that could result in withdrawal of the protest.

PROCEDURE FOR SUBMITTING PROTESTS

Any protest must comply with article 9 of the California Code of Regulations, title 23, commencing with section 745. Standard protest submittal forms are available from the State Water Board's Division of Water Rights or from the Division of Water Rights website at:

http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_protest.pdf .

Protests must be submitted in writing by post, fax, electronic mail or hand delivery to:

Mail:

State Water Resources Control Board, Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

FAX: (916) 341-5400

E-mail: gwilson@waterboards.ca.gov

Hand Delivery:

State Water Resources Control Board, Division of Water Rights
1001 "I" Street, 14th Floor
Sacramento, CA 94814

If you choose to fax or e-mail the protest, timely delivery of an original signed copy to the Division (either by hand or by mail) must follow in order for the protest to be accepted. Additionally, a protestant must provide the petitioner, DWR, with duplicate copies, sent to:

Department of Water Resources
c/o Nancy Quan, Chief
Program Development and Water Supply and Transfers
P.O. Box 942836
Sacramento, CA 94236-0001
FAX: (916) 653-9628

PROTEST SUBMITTAL DEADLINE

Protests submitted in response to this notice **must be received by the Division by 4:00 p.m. on October 28, 2010** (the 30th day after the date of this notice), the close of the protest period.

Protests not submitted by the close of the protest period will be subject to rejection.

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

RESOLUTION OF PROTESTS

If the State Water Board receives protests that are not resolved in settlement, the State Water Board may hold a hearing on the petition. A public Notice of Hearing would be issued at a later date. All protestants would be provided with a copy of the Notice of Public Hearing.

CONTACT PERSON

To obtain additional information regarding this petition, or to obtain copies of protest forms, please contact Greg Wilson by phone at (916) 341-5427 or by electronic mail at gwilson@waterboards.ca.gov. Protest forms are also available online at:

http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_protest.pdf .

ORIGINAL SIGNED BY:

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: SEP 28 2010